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India: Prevalence of bribery; redress available to those who are the subject of bribery (2005 - 2007)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

India was ranked last out of 30 leading exporting countries examined by Transparency International's (TI) Bribe Payers Index (BPI) 2006 (4 Oct. 2006). The BPI ranks India as 4.62 out of 10, zero indicating that corruption is rampant in the country and 10 indicating a perception of no corruption (TI 4 Oct. 2006). TI also indicates that India has not ratified the Organisation for Economic Co-operation and Development's (OECD) anti-bribery convention and recommends that it should adopt the provisions of this convention (ibid.).

Global Integrity publishes the Global Integrity Index, which assesses the "existence and effectiveness of anti-corruption mechanisms that promote public integrity" in various countries (Global Integrity n.d.a). The Index is based on more than 290 "discrete Integrity Indicators," which are divided into six key categories (ibid.). The integrity indicators also evaluate the implementation of these anti-corruption mechanisms and how accessible they are to the average citizen (ibid.). In 2006, India received an overall "moderate" score of 75 (over 90 is considered a "very strong" rating while under 60 is considered a "very weak" rating) (ibid.). While India received a strong score with 83 in the anti-corruption and rule of law category, the law enforcement section received a "weak" rating of 65 (ibid. n.d.b).

Freedom House reports that "[p]oliticians and civil servants are regularly caught accepting bribes or engaging in other corrupt behaviour but are rarely prosecuted" and that the police occasionally use "torture" to obtain bribes or confessions from suspects (1 Sept. 2006). According to an article published in the UK newspaper *The Times*,

[c]orruption is part of the daily routine in India. Whether an individual needs to get a phone line, renew a passport or dodge a speeding ticket, the process normally involves a bribe. Most officials get away with it because of a general lack of awareness about citizens' rights. (9 Apr. 2007)

The following information was provided by the South Asia Desk representative of the Asian Human Rights Commission (AHRC) in correspondence to the Research Directorate dated 30 March 2007:

Bribery is highly prevalent in India. It cuts across sections of Indian society from police to judiciary and affects all aspects of Indian life. [The available] redress is to complain to the Central Bureau of Investigation or to the Crime Branch (if set up in a state) of state police. However, barring a few instances of convictions, most of the accused escape conviction

In an article dated 26 January 2006 from *The Hindu Business Line*, a professor of Finance at the Indian Institute of Management in Bangalore provides the results of an informal survey on bribery he conducted over the three years prior to publication (26 Jan. 2006). The professor explains that government employees collect bribes for the government and on their own behalf, which he calls a "bribe tax" (*The Hindu Business Line* 26 Jan. 2006). The professor states that bribe taxes are collected from citizens for a variety of services and gives an estimate of the amount of bribe required for many services which he cites as examples in his article (ibid.). According to the professor, bribe taxes could generate approximately three to five million rupees [or approximately 78,390 (Canada 26 Jan. 2006a) to 130,650 Canadian dollars (CAD) (ibid. 26 Jan. 2006b)] per day in one city (*The Hindu Business Line* 26 Jan. 2006).

In its report on prison reforms, the Commonwealth Human Rights Initiative (CHRI) reports that, in India, "[p]rison officials are not only open to bribes, but in some cases demand money for prevention of abuse" (n.d.a). Several news sources report that seven officials from New Delhi's Tihar jail were suspended in May 2005 after they had been videotaped taking bribes to provide information on prisoners (*The Times of India* 5 May 2005; *The Tribune* 5 May 2005; AP 5 May 2005).

Many sources publish reports of bribery (*The Hindu* 24 Aug. 2006; ibid. 10 Aug. 2006; *The Times of India* 17 Mar. 2007; ibid. 9 Mar. 2007b; AHRC 8 Nov. 2006; *The Statesman* 28 Nov. 2006) with some indicating that people have been killed for refusing to pay bribes (*The Indian Express* 24 Jan. 2007; AHRC 23 Mar. 2007; ibid. 4 Oct. 2006). Many examples of bribery, which are too numerous to exhaustively include in this Response, can also be found on the Web sites of National and State anti-corruption bodies mentioned below.

In March 2007, the Bangalore *lokayukta* (a state anti-corruption body) raided the Jalki transportation checkpoint, which is known for its use of bribery (*The Times of India* 9 Mar. 2007a). *The Times of India* reports that Jalki checkpoint generates approximately 500 million rupees [or approximately CAD1,328,499.99 (Canada 9 Mar. 2007)] every year in bribe money (*The Times of India* 9 Mar. 2007a). Given this, checkpoint attendance is high at Jalki compared to other transportation checkpoints and staff will reportedly pay to be posted there and are reluctant to leave (*ibid.*).

Redress available

Between 1 and 15 July 2006, an anti-corruption campaign entitled "Drives Against Bribes" took place in 48 cities in India (Doha Press Association 2 July 2006; NDTV 1 July 2006; CHRI n.d.b). The campaign's goal was to raise awareness and to educate people about the Right to Information (RTI) Act and on how to use the Act instead of paying bribes (*ibid.*; Doha Press Association 2 July 2006). The RTI Act received presidential assent on 15 June 2005 and came into force on 12 October 2005 (CHRI n.d.b; India n.d..a). The RTI Act allows anyone to gain access, within 30 days of the request, to government records (*The Times* 9 Apr. 2007). One of the goals of the anti-corruption act is to "empower citizens to ask questions from the government, seek information about how the government works - instead of paying bribes to officials" (Doha Press Association 2 July 2006). The Doha Press Association gave as an example an individual who had been waiting three years for his passport application to be processed because an official had demanded a bribe and the RTI Act could help in bringing to light such problems (*ibid.*). However, *The Times* reports that "the majority of the population have no idea how to use [the RTI Act] in their everyday lives nor do they have access to the legal resources" (*ibid.*).

5th Pillar is a non-governmental organization (NGO) located in Chennai whose mandate is to eliminate corruption in India (5th Pillar n.d.). One of the main activities of 5th Pillar is the promotion of the RTI Act by raising awareness of its existence, helping people make use of it and preventing misuse of this Act (*ibid.*). Media sources report that 5th Pillar has printed copies of a "zero-rupee note" which people can give out when they are asked to pay bribes (*Mumbai Mirror* 6 Apr. 2007; *The Times* 9 Apr. 2007). In an effort to eliminate corruption, 5th Pillar has printed 25,000 such notes and is distributing them in the southern city of Chennai (*ibid.*). With the appearance of a 50 rupees bill, the notes include the words "I promise to neither accept nor give bribe" and the reverse of the note includes 5th Pillar's logo and their address (*Mumbai Mirror* 6 Apr. 2007).

The Anti Corruption Bureau (ACB) Maharashtra was established in Maharashtra on 26 November 1957 (ACB n.d.b). The ACB's mandate is to eliminate bribery and corruption by enforcing anti-corruption legislation "with integrity and impartiality" (*ibid.*; *ibid.* n.d.a). The ACB's main functions include collecting information to detect bribery and corruption that fall within the jurisdiction of the Prevention of Corruption Act, 1988 and investigating complaints made by the public, government officials or *lokayuktas* regarding corruption, bribery, embezzlement and criminal misconduct of public servants (*ibid.* n.d.c). Although the ACB is able to investigate cases against all public servants, it usually deals with cases against state government officials since cases against public servants from the central government are investigated by the Central Bureau of Investigation (CBI) (*ibid.*). However, the ACB may take action against central government officials when a sting operation is about to occur and there is no time to contact the CBI or when there is a likelihood that evidence will be destroyed or concealed if immediate action is not taken (*ibid.*). In 2006, the ACB arrested a total of 576 persons in entrapment cases, a total of 58 persons under corruption cases and a total of 135 persons in corruption and criminal misconduct cases (*ibid.* n.d.d).

The Central Bureau of Investigation (CBI) is an investigative police agency which handles major crimes having interstate and international consequences (CBI n.d.a). The CBI deals with three kinds of criminal cases: corruption and fraud carried out by public servants and central financial institutions, economic crimes and special crimes such as bombings, terrorism, kidnapping for ransom, "sensational homicides" and organized crimes (*ibid.*). However, anti-corruption constitutes the principal activity of the CBI (*ibid.* n.d.b). The CBI states that it will protect the identity of an informant and that it will not accept anonymous or pseudonymous complaints (*ibid.* n.d.f). According to the CBI Web site, its conviction rate varies between 65 to 70 percent (*ibid.* n.d.b). The CBI's annual report for 2005 indicates that a total of 1,267 cases were registered, that 1,402 cases were under investigation and that judgments were delivered by courts in 594 cases at the end of 2005 (*ibid.* n.d.c). A yearly report for 2006 is not available, however, monthly performance reports are published on the CBI's Web site. The most recent reports indicate that the CBI registered 105 cases in January 2007 (*ibid.* n.d.d) and 85 cases in February 2007 with 1,499 cases pending investigation as of 28 February 2007 (*ibid.* n.d.e).

The Central Vigilance Commission (CVC) was established in February 1964 and given "statutory status" on 25 August 1998 (CVC n.d.a). The CVC's role is "to advise and guide central government[al] agencies in the field of vigilance" (*ibid.*). As of April 2004, the CVC has the jurisdiction to receive written complaints regarding allegations of corruption or misuse of office and recommend the suitable action to be taken (*ibid.*). Among other functions, the CVC reviews investigations conducted by the Delhi Special Police Establishment into corruption cases, investigates any transactions in which a public servant is suspected or alleged to have acted corruptly and provides advice to disciplinary authorities (*ibid.* n.d.b). The CVC has jurisdiction over central government ministries and departments but does not have jurisdiction over private individuals and state governments (*ibid.* n.d.c). The CVC indicates that it protects the identity of complainants and that it will not accept anonymous or pseudonymous complaints (*ibid.*). If a person is victimized for having made a complaint to the CVC, the CVC may investigate this matter and "give

suitable directions to the concerned person or ... authority..." (ibid.). In February 2007, the CVC settled 313 cases (ibid. n.d.d).

The Serious Fraud Investigation Office (SFIO) is a multidisciplinary organization that investigates serious financial frauds perpetrated by companies (India n.d.b). The SFIO was established on 1 October 2003 and has one regional office located in Mumbai, which began operating in October 2004 (ibid.). Additional information on the SFIO could not be found among the sources consulted by the Research Directorate.

A total of 16 states and union territories are equipped with a *lokayukta*, an anti-corruption body which has jurisdiction over state matters; however, its role varies from one state to the next (AFP 27 July 2005). According to an Agence France-Presse article, *lokayuktas* only have the power to make recommendations to the government to take action against corrupt officials and do not have the authority to bring bribery cases to courts for resolution (ibid.). In addition, conviction rates are very low and the state government "rarely grants permission to prosecute senior government officials or bureaucrats" (ibid.). The head of the Karnataka *lokayukta* was quoted as saying that

in India, corruption is rampant among bureaucrats, politicians and businessmen.... Politicians as well as businessmen make use of bureaucrats to gain benefits. They are in a position to abuse their positions and see that both politicians and businessmen are helped. They in turn get kickbacks. (ibid.)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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Oral sources: The People's Union for Civil Liberties, the Central Vigilance Commission, Transparency International India and the South Asia Human Rights Documentation Centre did not provide information within the time constraints of this Response.

Internet sites, including: Amnesty International, Asian Human Rights Commission, Delhi Police, Freedom House, *Frontline* [Chennai], Human Rights Watch (HRW), Indian Social Institute, Interpol, Lok Satta, Ministry of Home Affairs, National Human Rights Commission, Office of the United Nations High Commissioner for Human Rights, Paul R. Brass, United Kingdom Border and Immigration Agency, United States Department of State.

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